

DECLARATION OF COUNSEL

FEB 11 2008

I, MICHAEL A. COFFINO, declare as follows:

FILED

1. I am an attorney licensed to practice law in the State of California and a Deputy Public Defender with the Marin County Public Defender's Office in San Rafael, California.

BY Rm DEPUTY

2. In 2005 and 2006 I represented ANTONIO FABIAN SILVEYRA in two criminal cases filed in the Superior Court of the State of California in and for the County of Marin: People of the State of California vs. Antonio Fabian Silveyra, case numbers SC143914A and SC144099A. I make this declaration upon Mr. Silveyra's request and with his consent that I disclose the substance of our attorney-client communications in connection with the above cases.

3. In SC143914A, Mr. Silveyra was charged with burglary of a vehicle, being in possession of a stolen vehicle, and other related offenses taking place on or about September 29, 2005. In SC144099A he was charged with being in possession of stolen property and with having committed the offense after having been released from custody on his own recognizance, the offense taking place on or about October 12, 2005.

4. On November 22, 2005, pursuant to a negotiated disposition with the District Attorney, Mr. Silveyra pleaded guilty in case number SC139914A to a felony violation of California Penal Code, Section 496d(a), being in possession of a stolen vehicle. In exchange for his plea of guilty the District Attorney dismissed the remaining felony charges in SC143914A and dismissed all of the charges in SC144099A.

5. At the time of the taking of the plea I was unaware of the fact that Mr. Silveyra was not a United States citizen and I was unaware of the immigration consequences that would ensue as a result of his plea. On December 16, 2005 Mr. Silveyra was sentenced to three years in prison. I am informed that he is now facing deportation proceedings resulting from his plea of guilty.

8. To the best of my knowledge, concern about the immigration consequences of Mr. Silveyra's plea of guilty did not factor into our decision to resolve his cases in the manner in which they were resolved, or enter into our attorney-client discussions in any way. In short, I was not aware of the immigration consequences that would ensue upon his conviction, and I did not advise him about those consequences at any time prior to his plea of guilty.

Executed this 5th day of January, 2008, at Berkeley, California.

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PROOF, OF SERVICE BY MAIL
BY PERSON IN U.S. INS CUSTODY
(Fed. R. Civ. P. 5; U.S.C § 1746)

I, Antonio F. SILVEYRA-Garcia declare:

I am over 18 years of age and a party to this action. I am a resident of D.H.S & B.I.C.E. FACILITY in the County of IMPERIAL, STATE OF CALIFORNIA.

My address is: 1115 N. IMPERIAL AVENUE EL CENTRO, CALIFORNIA 92243.

ON January 31, 2008 I served the attached,

Declaration of Counsel

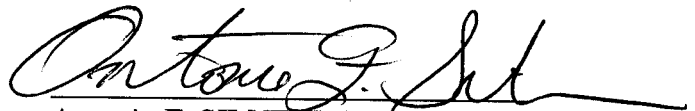
On the parties herein by U.S. Mail delivering a true and correct copies thereof, at the address set for Service:

U.S. District Court – Southern District
County of San Diego
Clerk of the Court
Honorable Judge Marilyn HL. Huff
880 Front Street
San Diego, CA 92107

I declare under penalty of perjury under the laws of the United States of America that the Forgoing is true and correct.

Executed on January 31, 2008.

Respectfully Submitted



Antonio F. SILVEYRA
A# 18-499-789
DHS / ICE / SPC.
1115 N. Imperial Avenue
El Centro, CA 92243
IN PRO SE

\$5.00
Fee Mailed
1/29/08 ap

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANTONIO F. SILVEYRA,

Petitioner,

vs.

PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent.

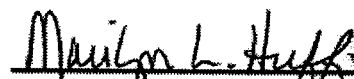
CASE NO. 08-CV-0018 H (NLS)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

Petitioner Antonio F. Silveyra, a detainee in the custody of the Department of Homeland Security, Bureau of Immigration and Customs Enforcement, proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, but has not paid the \$5.00 filing fee and has not moved to proceed in forma pauperis. (Doc. No. 1.) A petition for writ of habeas corpus must be accompanied by either a \$5.00 filing fee or an application to proceed in forma pauperis. See Local Rule 3(a), 28 U.S.C. § 2254. The case is therefore dismissed without prejudice. If Petitioner wishes to proceed he must submit a copy of this Order with the \$5.00 fee or adequate proof he cannot pay the fee **no later than March 11, 2008**. For Petitioner's convenience a blank request to proceed in forma pauperis form is included with this Order.

IT IS SO ORDERED.

DATED: January 9, 2008


MARILYN L. HUFF, District Judge
UNITED STATES DISTRICT COURT

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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12 Petitioner,

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